

# Exhibit C

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

THIS DOCUMENT RELATES TO ALL  
CLASS ACTIONS RELATING TO BMS  
CLASS ACTION:

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**DECLARATION OF ERIC MILLER**

The undersigned, Eric Miller, hereby states that:

1. I submit this Declaration in order to provide the Court and the parties to the above-captioned litigation with information regarding the mailing and publication of the Notice Program approved by the Court in its Order Granting Preliminary Approval of the BMS AWP Class Settlement, as well as to provide the Court with details concerning claims administration related to Classes 2 and 3 to date.

2. I am the Managing Senior Project Administrator of Rust Consulting, Inc. ("Rust"). I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently hereto.

3. Rust has been a Notice and/or Settlement Administrator for several pharmaceutical settlements, such as: Hytrin<sup>1</sup>, Augmentin<sup>2</sup>, Lupron<sup>3</sup>, Paxil<sup>4</sup>, Relafen<sup>5</sup>, Remeron<sup>6</sup>, and Warfarin<sup>7</sup>, which included both Third-Party Payor ("TPP") and consumer classes.

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<sup>1</sup> *In re Terazosin Hydrochloride Antitrust Litigation* (S.D.Fl. MDL No. 1317)

<sup>2</sup> *Rosemarie Ryan House, et al. v. GlaxoSmithKline PLC and SmithKline Beecham Corporation* (E.D.Va 2:02cv442)

<sup>3</sup> *In Re Lupron® Marketing And Sales Practices Litigation* (D.Ma. M.D.L. 1430)

<sup>4</sup> *Nichols, et al., v. Smithkline Beecham Corporation* (E.D.Pa. 00-CV-6222)

<sup>5</sup> *In Re Relafen Antitrust Litigation* (D.Ma. 01-CV-12239-WGY)

Pursuant to the Preliminary Approval Order, Rust was appointed as the Settlement Administrator to assist in the process of providing notice of the Settlement in this Action to potential TPP and Consumer Class Members in the Class 1, 2 and 3 Settlement Classes.

4. Rust maintains a mailing database of 41,916 potential TPP Class Members and record keepers (the “TPP Mailing Database”) which consists of membership listings and existing databases from the following sources:

- a) Pharmacy Benefit Management Institute;
- b) Health Insurance Association of America;
- c) Benefits Sourcebook;
- d) Managed Care Information Centers;
- e) Judy Diamond Associates;
- f) A.M. Best Company;
- g) Association of Managed Care Providers;
- h) Society of Professional Benefit Administrators;
- i) American Association of Health Plans;
- j) Self Insurers Institute of America; and
- k) National Association of Insurance Commissioners.

5. Rust developed the TPP Mailing Database in March 2001 as a proprietary mailing database and it is maintained and regularly updated by Rust to be used in notifying TPP Class members in settlements of large pharmaceutical antitrust litigations, including those referenced in ¶ 3, above, as well as *In re Lorazepam and Clorazepate Antitrust Litigation* (MDL No. 1290); *Vista Healthplan, Inc., and Ramona Sakiestewa v. Bristol-Myers Squibb Co., and American BioScience, Inc.* (Civil Action No. 1:01CV01295 (EGS) (AK)); and *In re Cardizem CD Antitrust Litigation* (MDL No. 1278). Rust continues to update the TPP Mailing Database with changes

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<sup>6</sup> *In Re: Remeron End Payor Antitrust Litigation* (D.N.J. 02-2007 (FSH))

<sup>7</sup> *In re Warfarin Sodium Antitrust Litigation* (D.De. MDL No. 98-1232)

of address and additional TPP Class members and record keepers as they are identified in subsequent settlements.

6. On September 8, 2010, pursuant to the Preliminary Approval Order, Rust mailed the TPP Notice of Proposed Class Action Settlement and Third-Party Payor Claim Form (the “TPP Notice Packet”) to 41,916 potential TPP Class members, using the TPP Mailing Database. A copy of the TPP Notice Packet is attached hereto as Exhibit 1.

7. As of this date, the United States Postal Service (“USPS”) has returned a total of 231 TPP Notice Packets as undeliverable with a forwarding address. Rust subsequently re-mailed TPP Notice Packets to each address provided by the USPS.

8. As of this date, the USPS returned 1,666 TPP Notice Packets as undeliverable without forwarding addresses. Rust utilized the services of an address database service, to which Rust subscribes, to seek updated addresses. As a result, Rust received 290 updated addresses and subsequently mailed TPP Notice Packets to the updated addresses.

9. Kinsella/Media, LLC developed a Notice Plan to target Consumer and TPP Class Members. Please refer to the Declaration of Katherine Kinsella, filed separately with this Court, concerning the publication of notice to TPP and Consumer Class Members.

10. Rust has acted as a repository for inquiries and communications from potential Class Members. Pursuant to the Preliminary Approval Order, Rust established: (a) Post Office Box

(24648, West Palm Beach, FL 33416), (b) toll-free telephone “hotline” (1-877-690-7097), (c) settlement website ([www.bmsawpsettlement.com](http://www.bmsawpsettlement.com)).

11. When calling the toll-free telephone number, the caller is able to listen to a pre-recorded message which answers many frequently asked questions. The caller is then prompted to press a telephone keypad number to contact a live “telephone representative” to answer additional questions. As of this date, 50 TPP callers have called the pre-recorded message and approximately 48 of those requested to speak with a telephone representative.

12. The website includes links to documents including the TPP Notice, the TPP Claim Form, Court Documents, Frequently Asked Questions, Contact Information, the covered drug list which contains J-codes the NDC List, and the Consumer Class 3 Notice, and the Class 3 Claim Form. The website went “live” on August 16, 2010 and to date has been viewed over 18,099 times. Please note that one individual may have visited the site multiple times.

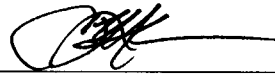
13. Rust has received 193 TPP claim forms to date. As the deadline for filing of claims (November 19, 2010) has not yet passed we anticipate additional claims from TPP’s up to and through that date.

14. As of this date, Rust has received 44 Class 3 Consumer claim forms. In addition, the Consumer Class 3 Notice has been downloaded 73 times. Of those approximately 84% have opted for the “Easy Refund Option”.

15. In addition, 11 Consumers either have written to Rust or called the toll-free settlement hotline to request a Class 3 Notice Packet.

16. Pursuant to the Order, Requests for Exclusion must be postmarked by October 29, 2010. To date, Rust has received Requests for Exclusion from 11 TPP's and none from Consumer Class Members. A true and correct listing of the TPPs requesting exclusion is attached hereto as Exhibit 2. Of these 11 requests for exclusion, 8 were received by the October 29, 2010 deadline, while 3 were received shortly after that date.

17. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



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Eric Miller

Dated: November 12, 2010

# **EXHIBIT 1**

Authorized by the U.S. District Court for the District of Massachusetts

**If You Are A Third-Party Payor And Made Reimbursements  
For Certain Bristol-Myers Squibb Chemotherapy Drugs**

**You May Be Able To Receive A Substantial Payment  
From A Proposed Class Action Settlement**

**Summary of Proposed Settlement**

- There is a Proposed Class Action Settlement with Bristol-Myers Squibb (“BMS”) concerning the drugs Blenoxane®, Cytosan®, Etopophos®, Paraplatin®, Rubex®, Taxol® and Vepesid® (referred to as the “BMS Drugs”).
- The name of the lawsuit is *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-C V-12257-PBS, MDL No. 1456 (D. Mass.).
- The lawsuit claims that Third-Party Payors (“TPPs”) who reimbursed any portion of their insureds’ Medicare Part B co-payment or who reimbursed for these drugs outside of Medicare Part B based on the “average wholesale price” (“AWP”) paid more than they should have for these drugs.
- The lawsuit claims the AWP reported by BMS for the BMS drugs was false and inflated. AWP’s were used to set the amount Medicare Part B, and most private insurers reimbursed for these drugs. BMS contends that it reported true and accurate list prices for its drugs and denies any wrongdoing and is settling to avoid the burden and expense of continued litigation.
- To avoid the burden and expense of continued litigation, BMS has agreed to pay \$19 million to settle claims of TPPs as well as consumers who made percentage co-payments based on AWP.
- Under the terms of Settlement, 77% will be used to satisfy the claims of TPPs who file claims. The remaining 23% of the total Settlement amount will be set aside exclusively to satisfy the claims of consumers.
- Generally speaking, you are a member of one of the Settlement Classes:

If you reimbursed any portion of an insured’s Medicare Part B co-payment for any of these drugs from January 1, 1991 through December 31, 2004; or

If you made reimbursements outside of Medicare Part B for any of these drugs from January 1, 1991 through December 31, 2004.

***Your Legal Rights Are Affected Even If You Do Not Act.***

***Read This Notice Carefully.***



**What This Notice Contains**

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### **Basic Information**

#### **1. Why Did I Get This Notice?**

You were mailed this Notice because records indicate you are a TPP who may provide pharmaceutical coverage for your insureds. Or, you may have requested this Notice after seeing the Summary Notice in a publication.

#### **2. What Is The Lawsuit About?**

The lawsuit claims that BMS reported false and inflated AWP's for the BMS drugs at issue in this case. The lawsuit claims that the reported AWP's were used to set reimbursement amounts that were paid by Medicare and its beneficiaries and to set the reimbursement by private health insurers and consumers making percentage co-payments under private health insurance plans. The lawsuit asks the Court to award money damages to TPPs who made reimbursements under Medicare Part B for the drugs at issue or who reimbursed outside of Medicare Part B based on AWP.

BMS contends that it reported true and accurate list prices for its drugs and denies any wrongdoing. The Proposed Settlement is not an admission of wrongdoing or an indication that any law was violated. BMS has entered into the Proposed Settlement to avoid further expense and inconvenience.

#### **3. Why Is This A Class Action?**

In a class action lawsuit, one or more people called "class representatives" sue on behalf of people who have similar claims. The people together are a "class" or "class members." A court must determine if a lawsuit should proceed as a class action. If it does, a trial then decides the lawsuit for everyone in the class. Sometimes, the parties may settle without a trial.

The Parties here have agreed to a Proposed Settlement that includes a national class of TPPs who reimbursed, or incurred obligations to reimburse, any portion of a Medicare Part B co-payment for the drugs at issue. The Proposed Settlement also includes a national class of TPPs who made reimbursements for these drugs outside of Medicare Part B based on AWP. The Court has preliminarily approved this Proposed Settlement but will hold a Hearing to decide whether it should be finally approved. (*See* Question 13.)

#### **4. How Do I Know If I Am Included In The Proposed Settlement?**

Generally speaking, you are a member of one of the Settlement Classes if you reimbursed (or incurred an obligation to reimburse) any portion of an insured's Medicare Part B co-payment for any of these drugs from January 1, 1991 through December 31, 2004; or you made (or incurred an obligation to make) reimbursements outside of Medicare Part B for any of these drugs from January 1, 1991 through December 31, 2004. You do not need to do anything to become part of one of these Settlement Classes, **but you must complete the Claim Form in order to be able to receive money.**

Excluded from the Proposed Settlement are (1) consumers who made flat co-payments, who were reimbursed fully for their payments, or who have the right to be fully reimbursed, and (2) BMS and certain related entities as defined in the Settlement Agreement. Also excluded from the Proposed Settlement are all federal, state, and local government entities in the United States, except any such governmental agencies or programs that made or incurred an obligation to make a reimbursement for a Class Drug as part of a health benefit plan for their employees, but only with respect to such payment.

## **Benefits Of The Proposed Settlement – What You Get**

### **5. What Does The Proposed Settlement Provide?**

BMS will pay \$19 million to settle the lawsuit. This amount is meant to satisfy the claims of both TPPs who meet the criteria for inclusion in one of the two Settlement Classes as well as claims by consumers who made percentage co-payments and full cash payments based on the published AWP. All costs associated with notice and administration, attorneys' fees and litigation costs, and compensation to the named class representatives for time spent providing documents and testimony in connection with this case will be paid from the \$19 million settlement amount, except that BMS will pay 50% of the costs of notice up to \$1 million. The Court must approve all aspects of this Proposed Settlement.

Under the Agreement, 77% of the net settlement amount will be designated to satisfy the claims of TPPs. The remaining 23% of the net settlement amount will be designated for the purpose of paying consumer claims. Consumers and TPPs are sharing the costs of notice and administration equally.

### **6. How Do I File A Claim?**

Attached to this Notice is a Claim Form. *You must fill out the Claim Form and submit it to the Claims Administrator, received or postmarked no later than November 19, 2010*, and addressed to:

BMS AWP TPP Settlement Administrator  
P.O. Box 24648  
West Palm Beach, FL 33416

**As part of your claim, you must provide the backup information and certifications requested on the Claim Form.**

### **7. How Are Payments Determined?**

How much you receive from this Proposed Settlement depends on the volume and amount of claims submitted by other TPP Settlement Class Members.

- TPP Settlement Class Members are required to provide the amount of reimbursements for certain drugs at issue from January 1, 2003 to December 31, 2003. This one-year period will be used to determine the portion of the Settlement Amount that will be paid to each TPP submitting valid claims.
- TPP Settlement Class Member's portion of the Settlement Amount will be based upon their reimbursements for the BMS Drugs.
- If total valid TPP Settlement Class Member claims exceed the total portion of the settlement set aside to satisfy the claims of TPPs, all TPP claims will be reduced proportionately.

## **Excluding Yourself from the Proposed Settlement**

### **8. What If I Do Not Want To Be Included in the Proposed Settlement?**

If you do not want to be in the Settlement Classes and you want to keep the right to sue BMS about the same claims on your own, you must take steps to get out of the Settlement Classes. This is called excluding yourself.

By excluding yourself, you keep the right to file your own lawsuit or join another lawsuit against BMS about the claims in this lawsuit. (If you do not exclude yourself, you will be releasing AWP pricing-related claims against BMS and other Released Parties. You will not be releasing unrelated claims, such as

product liability, breach of warranty, or personal injury claims. For further details, see “Getting More Information” below.)

If you exclude yourself from the Settlement Classes, however, you will not be able to file a claim for money and you will not be included in the Proposed Settlement.

## **9. How Do I Exclude Myself from the Proposed Settlement?**

You can exclude yourself from the Proposed Settlement by sending a letter that includes all of the following:

- Your name, address, and telephone number;
- The name and number of the lawsuit: *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS, MDL No. 1456;
- If you have hired your own lawyer, the name, address, and telephone number of your lawyer;
- A statement that you want to be excluded from the Settlement Classes and
- A signed certification containing the following language:

The undersigned individual hereby represents that he/she has the authority to sign and submit this notice of exclusion on behalf of the above-named class member. The undersigned also certifies that he/she has not received any advice from the parties to this litigation or their attorneys concerning his/her or the class member’s fiduciary obligations under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1100, *et seq.*, or other laws governing their obligations at any class member. The undersigned understands that by submitting this notice of exclusion, the class member identified above will not be entitled to receive any proceeds of the class Settlement Fund. By affixing my signature below, I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

In addition, you are requested to provide the amount paid for each Class Drug at issue during January 1, 2003 to December 31, 2003. Your letter requesting exclusion must be mailed first class, **received no later than October 29, 2010**, to:

BMS AWP TPP Settlement Administrator  
P.O. Box 24648  
West Palm Beach, FL 33416

Please remember that you cannot exclude yourself by calling or by sending an email. Failure to exclude yourself pursuant to the above instructions will result in you being barred by the Settlement if it is approved.

## **Objecting to or Commenting on the Proposed Settlement**

## **10. May I Object To, Or Comment On, the Proposed Settlement?**

Yes. If you have comments about, or disagree with, any aspect of the Proposed Settlement, you may express your views to the Court through a written response to the Proposed Settlement. The written response should include your name, address, telephone number and a brief explanation of your reasons for objection. The document **must** be signed to ensure the Court’s review. The response must be filed with the Court at the following address on or before **October 29, 2010**:

Clerk of Court  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, Massachusetts 02210

and served on Counsel for the Parties on or before **October 29, 2010** at the following addresses:

Counsel for the Class

Steve W. Berman  
Hagens Berman Sobol Shapiro LLP  
1918 Eighth Avenue, Suite 3300  
Seattle, WA 98101

Counsel for BMS

Lyndon M. Tretter  
Hogan Lovells US LLP  
875 Third Avenue  
New York, NY 10022

In addition, your document must clearly state that it relates to the following Civil Action Number: 01-CV-12257-PBS, MDL No. 1456. If you object to or comment on the Proposed Settlement, you will be subject to the jurisdiction of the Court.

**The Lawyers Representing You**

**11. Do I Have A Lawyer Representing My Interests In This Case?**

Yes. The Court has appointed the following law firms to represent you and other Class Members:

Hagens Berman Sobol Shapiro LLP  
[www.hbsslaw.com](http://www.hbsslaw.com)  
1918 Eighth Avenue, Suite 3300  
Seattle, WA 98101

*and*

55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142

Edelson & Associates LLC  
45 West Court Street  
Doylestown, PA 18901

Spector Roseman Kodroff & Willis, PC  
[www.srk-law.com](http://www.srk-law.com)  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103

Wexler Wallace LLP  
[www.wtwlaw.us](http://www.wtwlaw.us)  
55 West Monroe Street, Suite 3300  
Chicago, IL 60602

These lawyers are called Class Counsel. You will not be charged personally for these lawyers, but they will ask the Court to award them a fee of up to 33 1/3 % of the Settlement Amount, plus interest. In addition, Class Counsel will request reimbursement of the expenses and costs associated with litigation of this case. The fee will be paid out of the \$19 million Settlement Amount as will any reimbursement of litigation costs and expenses awarded by the Court. More information about Class Counsel and their experience is available at the websites listed above.

**12. Should I Get My Own Lawyer?**

You don't need to hire your own lawyer. However, if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance. (*See* Question 15.) If you hire a lawyer to appear for you in this case, that will be at your own expense.

**The Court's Final Approval Hearing**

**13. When And Where Will The Court Decide On Whether To Grant Final Approval Of The Proposed Settlement?**

The Court will hold a Final Approval Hearing on November 19, 2010 at 2:00 p.m. to consider whether the Proposed Settlement is fair, reasonable and adequate. At the Hearing, the Court will decide whether to approve the Proposed Settlement and the request for attorneys' fees and expenses. If comments or objections have been received, the Court will consider them at this time.

**Note:** The Hearings may be postponed to a different date without additional notice. Updated information will be posted on the BMS AWP Settlement website at [www.BMSAWPSettlement.com](http://www.BMSAWPSettlement.com).

**14. Must I Attend The Final Approval Hearing?**

No. Attendance is not required, even if you properly mailed a written response. Class Counsel is prepared to answer the Court's questions on your behalf. If you or your personal attorney still want to attend the Hearing, you are more than welcome at your expense. However, it is not necessary that either of you attend. As long as the objection was received on or before the deadline, the Court will consider it.

**15. May I Speak At The Final Approval Hearing?**

Yes. If you or your own lawyer want to speak, instead of Class Counsel, at the Final Approval Hearing, you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance should include the name and number of the lawsuit, and state that you wish to enter an appearance at the Final Approval Hearing. It also must include your name, address, telephone number and signature.

Your "Notice of Appearance" **must** be filed with the Court on or before **October 29, 2010** and served on Counsel listed in Question 10 above on or before **October 29, 2010**. You cannot speak at the Hearing if you previously asked to be excluded from the Proposed Settlement Classes and are not submitting a claim form now. The Notice of Appearance must be filed with the Court and served on Counsel at the addresses set forth above in response to Question 10.

The Notice of Appearance must be filed using the following Civil Action Number: 01-CV-12257-PBS, MDL No. 1456.

**Getting More Information**

**16. Where Do I Obtain More Information?**

More details are in the Complaint filed by Class Counsel, the Answers filed by BMS, and the other legal documents that have been filed with the Court in this lawsuit. These documents include the BMS AWP Settlement Agreement and Release, which sets forth in great detail the Settlement's provisions. You can look at and copy these legal documents at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210, or via the internet at [www.BMSAWPSettlement.com](http://www.BMSAWPSettlement.com).

In addition, if you have any questions about the lawsuit or this Notice, you may:

- Visit the BMS Settlement website at [www.BMSAWPSettlement.com](http://www.BMSAWPSettlement.com);
- Call toll free 1-877-690-7097; or
- Write to: BMS AWP TPP Settlement Administrator  
P.O. Box 24648  
West Palm Beach, FL 33416

DATED: July 29, 2009

By Order of the United States District Court  
District of Massachusetts  
/s/ The Honorable Judge Patti B. Saris

BMS AWP TPP Settlement Administrator  
P.O. Box 24648  
West Palm Beach, FL 33416

**IMPORTANT COURT DOCUMENTS**  
**ATTENTION: PRESIDENT/CEO, FUND ADMINISTRATOR**  
**OR LEGAL DEPARTMENT**

**MUST BE POSTMARKED  
NO LATER THAN  
NOVEMBER 19, 2010**

**BMS AWP SETTLEMENT  
THIRD-PARTY PAYOR CLAIM FORM**

**OFFICIAL USE ONLY**

*In re: Pharmaceutical Industry Average Wholesale Price Litigation*  
Docket No. 01-CV-12257 PBS, MDL No. 1456

To get a share of the Settlement Fund, you need to complete and sign this Claim Form and submit it to:

BMS AWP TPP Settlement Administrator  
P.O. Box 24648  
West Palm Beach, FL 33416

***This Claim Form must be received or postmarked no later than November 19, 2010.***

The information you provide will be kept confidential and will be used only for administering this settlement. If you have any questions, please call the Claims Administrator at **1-877-690-7097**.

A TPP Settlement Class Member ("Class Member") or an authorized agent can complete this Claim Form. If both a Class Member and its authorized agent submit a Claim Form, the Claims Administrator will only consider the Class Member's Claim Form. The Claims Administrator may request supporting documentation. The claim may be rejected if any requested documentation is not provided.

If one or more Class Members has authorized you to submit a Claim Form on its behalf, you must provide the information requested in Section B in addition to the other information requested by this Claim Form. You may submit a separate Claim Form for each Class Member that has duly authorized you to do so, OR you may submit one Claim Form for all such Class Members that have authorized you to do so. If you are submitting Claim Forms both on your own behalf as a Class Member AND on behalf of one or more Class Members that have authorized you to do so, you should submit one Claim Form for yourself and another Claim Form for the other Class Member(s). **Do not submit a Claim Form on behalf of any Class Member without specific prior authorization from that Class Member.**

## **SECTION A – CLAIMANT IDENTIFICATION**

**Please indicate whether you are claiming on your own behalf as a Class Member or as the authorized agent of one or more Class Members by placing an "X" in the appropriate space below.** If you wish to make a claim as a Class Member *and also* as the authorized agent of other Class Members, please complete one Claim Form for your claim as a Class Member and a separate Claim Form for those Class Members for whom you are authorized to submit a claim:

☐

I am the Class Member

☐

I am filing as the Authorized Agent of a Class Member\*\*

\*\* As Authorized Agent, please check how your relationship with the Class Member is best described:

☐

Third Party Administrator (other than a Pharmacy Benefits Manager)

☐

Pharmacy Benefits Manager

☐

Other (Explain): \_\_\_\_\_





**SECTION B – CLASS MEMBER OR AGENT INFORMATION**

Class Member's/Authorized Agent's Name

Street Address

Floor/Suite

City

State

Zip Code

Area Code – Telephone Number

Area Code – Fax Number

Class Member's/Authorized Agent's Tax Identification Number

If you file as a Class Member, list other names by which you have been known or other Federal Employer Identification Numbers ("FEINs") you have used from January 1, 1991 through December 31, 2004.

If you are filing as the Class Member, check the term below that best describes your company/entity:

<input type="checkbox"/> Health Insurance Company/HMO	<input type="checkbox"/> Self-Insured Employee Health Plan
<input type="checkbox"/> Self-Insured Union Health & Welfare Fund	<input type="checkbox"/> Other (Explain): <input type="text"/>

**SECTION C – CLAIM BY AUTHORIZED AGENT**

Please list the name and FEIN of every Class Member for whom you have been duly authorized to submit this Claim Form (attach additional sheets to this Claim Form as necessary). Alternatively, you may submit the requested list of Class Member names and FEINs in an acceptable electronic format. Please contact the Claims Administrator to determine what formats are acceptable.



**SECTION D – TOTAL AMOUNT OF BMS DRUG PURCHASES**

For the Class Member on whose behalf you are submitting a claim, state the total and final amount paid or reimbursed, net of rebates, chargebacks, co-pays, and/or co-insurance for each BMS Drug set out in the chart below with a date of service or date of fill from January 1, 2003 to December 31, 2003. If you are claiming more than \$300,000, you will need to provide additional information (See Section F):

Drug Name	MediGap TPP Class	Private Payor TPP Class
Blenoxane	\$	\$
Cytosan	\$	\$
Etopophos	\$	\$
Paraplatin	\$	\$
Rubex	\$	\$
Taxol	\$	\$
Vepesid	\$	\$
<b>TOTAL \$</b>	\$	\$

*Claimant certifies that the figures are true and accurate and are based upon actual records maintained by or otherwise available to the claimant.*

**SECTION E – JURISDICTION OF THE COURT AND CERTIFICATION**

By signing below, I hereby swear and affirm that: (1) I have authority to submit this Claim Form either directly or on behalf of the Class Member or as its Authorized Agent, and, in turn, have been given the authority to submit this Claim Form by each Class Member identified in this Claim Form and in any attachments to it, and to receive on behalf of each such Class Member any and all amounts that may be allocated from the TPP Settlement Pool to such Class Member; (2) the information contained in this Claim Form and any attachments hereto is true and accurate, based on records maintained by or otherwise available to me; (3) I, the Authorized Agent (if any), and the Class Member on whose behalf this Claim Form is submitted, hereby submit to the jurisdiction of the United States District Court for the District of Massachusetts (the "Court") for all purposes associated with this Claim Form and the Settlement, including resolution of disputes relating to this Claim Form; (4) in the event that amounts from the TPP Settlement Pool are distributed to the Authorized Agent of a Class Member, and the Class Member later claims that the Authorized Agent did not have the authority to claim and receive such amounts on its behalf, the Authorized Agent, I, and/or my employer will hold the Class, Counsel for the Class, Defendants, Counsel for Defendants, and the Claims Administrator harmless with respect to any claims made by said Class Member.

Signature

Position



Print Name

Month/Day/Year




The following additional information is to be provided by the Individual that signs and certifies this Claim Form: I am filing this Claim Form as the authorized employee of the following Class Member or Authorized Agent for a Class Member:

Name of Individual's Employer

Business Address

Floor/Suite

City

State

Zip Code

Area Code – Telephone Number

Area Code – Fax Number

Email Address

Mail the completed Claim Form to the address listed on page 1, postmarked no later than **NOVEMBER 19, 2010**.

## SECTION F – CLAIM DOCUMENTATION INSTRUCTIONS

If you are claiming less than \$300,000 of total purchases of all BMS Drugs for the 2003 period, you do not need to attach any additional information. However, even if your purchase amount is less than \$300,000, you should retain the information required for claims over \$300,000 because any claim may be audited.

If you are claiming \$300,000 or more of total purchases of all BMS Drugs you must provide documentation with your Claim Form to have your claim considered by the Claims Administrator. Please provide the required data fields necessary for your participation as a TPP Class Member as presented in the Data Field Layout sample on page 5, for all paid claims with a date of service or date of fill between January 1, 2003 to December 31, 2003 net of co-pay deductibles or co-insurance. Please provide this data along with the Claim Form to the Claims Administrator received or postmarked no later than November 19, 2010:

1. J-Code or NDC Number – provide the applicable J-Code or NDC Number for each transaction. A list of the J-Codes and NDC Numbers are annexed as Attachment A.
2. Patient Identifier – provide a random encrypted patient identification number. This number must consistently reflect the same patient.
3. Service and/or Fill Date – we expect service date will be available for J-Code entries and fill date will be available for NDC entries. Please include both if they are available.
4. Group Number – provide the group number assigned to each transaction. As part of the auditing process, you may be asked to provide the corresponding group name for each group number. Only the Claims Administrator will have access to this information.
5. Amount Billed – billed charges or the initial amount billed by the provider or providers before any adjustments.
6. Net Amount Paid – final amount paid for each discrete transaction, net of co-pays, deductibles, co-insurance, and any other credits and adjustments after initial payment.



**OTHER INFORMATION**

- If you are able, please provide units for each transaction.
- Please provide the electronic data in either Microsoft Excel format or ASCII flat file pipe delimited “|” or fixed-width format. ***Refer to the sample layout below.***
- Finally, please provide a list of all self-funded healthcare plans (“SFPs”) for which you are authorized to make a claim.
- All information you provide is subject to the protective order governing this action.

**Data Field Layout for Claims of \$300,000 or More**

<b>NDC or J-Code</b>	<b>Patient Identifier</b>	<b>Service/Fill Date</b>	<b>Group Number</b>	<b>Amount Billed</b>	<b>Net Amount Paid</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
<b>COLUMN TOTALS</b>				\$ <input type="text"/>	\$ <input type="text"/>
<b>TOTAL CLAIM</b>				\$ <input type="text"/>	

## ATTACHMENT A - LIST OF J-CODES AND NDC NUMBERS

NDC	DRUG	DESCRIPTION
00015301020	Blenoxane	BLENOXANE INJ 15 UNIT VL
00015301026	Blenoxane	BLENOXANE INJ 15 UNIT VHA
00015301097	Blenoxane	BLENOXANE 15 UNITS VIAL
00015306301	Blenoxane	BLENOXANE INJ 30 UNIT VL
00015306326	Blenoxane	BLENOXANE INJ 30 UNIT VHA
00015050001	Cytoxan	CYTOXAN FOR INJ 100 MG
00015050041	Cytoxan	CYTOXAN INJ 100MG
00015050141	Cytoxan	CYTOXAN INJ 200MG
00015050241	Cytoxan	CYTOXAN INJ 1X500MG VIAL
00015050301	Cytoxan	CYTOXAN TABS 50MG
00015050302	Cytoxan	CYTOXAN TABLETS 50MG
00015050303	Cytoxan	CYTOXAN TABLETS 50 MG
00015050348	Cytoxan	CYTOXAN TABS 50MG
00015050401	Cytoxan	CYTOXAN TABS 25MG
00015050541	Cytoxan	CYTOXAN PINJ 1X1G VIAL
00015050641	Cytoxan	CYTOXAN INJ 1X2GM VIAL
00015053910	Cytoxan	CYTOXAN 100MG LYOPH W/CYT
00015053941	Cytoxan	CYTOXAN L YOPHILIZED 100MG
00015054610	Cytoxan	CYTOXAN 200MG LYOPH W/CYT
00015054641	Cytoxan	CYTOXAN L YOPHILIZED 200MG
00015054710	Cytoxan	CYTOXAN 500MG LYOPH W/CYT
00015054712	Cytoxan	CYTOXAN L YO 500MG VL VHA
00015054741	Cytoxan	CYTOXAN L YOPH 500MG
00015054810	Cytoxan	CYTOXAN 1 GM LYOPH W/CTYOG
00015054812	Cytoxan	CYTOXAN 1G 6X50ML VHA+
00015054841	Cytoxan	CYTOXAN L YOPHILIZED 1GM
00015054910	Cytoxan	CYTOXAN 2GM LYOPH W/CYTOG
00015054912	Cytoxan	CYTOXAN 2G 6X100ML VHA+
00015054941	Cytoxan	CYTOXAN L YOPHILIZED 2GM
00087050001	Cytoxan	CYTOXAN 100MG VIAL
00087050041	Cytoxan	CYTOXAN 100MG VIAL
00087050101	Cytoxan	CYTOXAN 200MG VIAL
00087050141	Cytoxan	CYTOXAN 200 MG VIAL
00087050201	Cytoxan	CYTOXAN 500MG VIAL
00087050241	Cytoxan	CYTOXAN 500MG VIAL
00087050301	Cytoxan	CYTOXAN 50MG TABLET
00087050302	Cytoxan	CYTOXAN 50MG TABLET
00087050303	Cytoxan	CYTOXAN 50MG TABLET
00087050401	Cytoxan	CYTOXAN 25MG TABLET
00087050541	Cytoxan	CYTOXAN 1GM VIAL
00087050641	Cytoxan	CYTOXAN 2GM VIAL
00087054741	Cytoxan	CYTOXAN L YOPHILIZED 500MG

NDC	DRUG	DESCRIPTION
00015340420	Etopophos	ETOPOPHOS 100MG VIAL
00015321030	Paraplatin	PARAPLATIN 50 MG/5 ML VIAL
00015321076	Paraplatin	PARAPLATIN 50 MG/5 ML VIAL
00015321130	Paraplatin	PARAPLATIN 150 MG/15 ML VIAL
00015321176	Paraplatin	PARAPLATIN 150 MG/15 ML VIAL
00015321230	Paraplatin	PARAPLATIN 450 MG/45 ML VIAL
00015321276	Paraplatin	PARAPLATIN 450 MG/45 ML VIAL
00015321310	Paraplatin	PARAPLATIN 50MG W/CYTO
00015321329	Paraplatin	PARAPLATIN 1 0X5ML VHA+
00015321330	Paraplatin	PARAPLATIN 50MG LYOPHILZ
00015321410	Paraplatin	PARAPLATIN 150MG LYOPH CY
00015321429	Paraplatin	PARAPLATIN 1 0X1 5ML VHA+
00015321430	Paraplatin	PARAPLATIN 1X150MG LYO VL
00015321510	Paraplatin	PARAPLATIN 450MG VL W/CYT
00015321529	Paraplatin	PARAPLATIN 10X45ML VHA+
00015321530	Paraplatin	PARAPLATIN 1X450MG LYO VL
00015321630	Paraplatin	PARAPLATIN 600 MG/60 ML VIAL
00015335122	Rubex	RUBEX 10MG LYOPHILIZED
00015335124	Rubex	RUBEX 10MG IMMUNEX LABEL
00015335222	Rubex	RUBEX 50MG LYOPHILIZED
00015335224	Rubex	RUBEX 50MG IMMUNEX LABEL
00015335322	Rubex	RUBEX 100 MG LYOPHILIZED
00015335324	Rubex	RUBEX 100MG IMMUNEX LABEL
00015345620	Taxol	TAXOL 30MG CONC FOR INJ
00015345699	Taxol	TAXOL 30MG/5ML VIAL
00015347520	Taxol	TAXOL 30MG/5ML VHA+ LABEL
00015347527	Taxol	TAXOL 30MG SEM-SYN VIAL
00015347530	Taxol	TAXOL 30MG INJ MULTIDOSE
00015347620	Taxol	TAXOL 100MG/16.7ML VHA+ L
00015347627	Taxol	TAXOL 100MG SEM-SYN VIAL
00015347630	Taxol	TAXOL 100MG INJ MULTIDOSE
00015347911	Taxol	TAXOL 300MG/50ML VIAL
00015306120	Vepesid	VEPESID 500MG
00015306124	Vepesid	VEPESID 500MG 25ML VL VHA
00015306220	Vepesid	VEPESID 1GM/50ML
00015306224	Vepesid	VEPESID 1G 50ML VIAL VHA+
00015308420	Vepesid	VEPESID INJ 150MG/7.5ML
00015309145	Vepesid	VEPESID 50MG CAPSULES
00015309510	Vepesid	VEPESID 100MG VIAL W/CYTO
00015309519	Vepesid	VEPESID 20MG/ML AMPUL
00015309520	Vepesid	VEPESID INJ 100MG/5ML
00015309530	Vepesid	VEPESID 100MG VL W/O CYTO

NDC	DRUG	DESCRIPTION
00015309595	Vepesid	VEPESID 20 MG/ML VIAL
00015309597	Vepesid	VEPESID 20MG/ML AMPUL
00015309615	Vepesid	VEPESID 10MG/ML VIAL
00015309695	Vepesid	VEPESID 10MG/ML VIAL

J-CODE	
Drug	J-Code
Blenoxane	J9040
Cytoxan	J8530
	J9070
	J9080
	J9090
	J0991
	J9092
	J9093
	J9094
	J9095
	J9096
	J9097
Etopophos	J9181
	J9182
	J8560
Paraplatin	J9045
	J9000
Rubex	J9001
	J9265
Taxol	J9181
Vepesid	J9182
	J8560

## **EXHIBIT 2**

PROJECT: BMS AWP TPP - Database: BMST

Page 1 of 1

Report Criteria: None

Report ID :EXC15001

EXCL ID	FULL NAME
1	ST PETERSBURG TIMES
2	LERROI INTERNATIONAL
3	KOCH COMPANIES
4	SUTTER HEALTH
5	HAY GROUP INC
6	BURLINGTON DRUG COMPANY
7	RLI CORP.
8	THE MATH WORKS
9	FRANA COMPANIES
10	MCDONALDS
11	MISSISSIPPI STATE & SCHOOL EMPLOYEES
TOTAL NUMBER OF EXCLUSIONS: 11	

**CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE**

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on November 12, 2010, I caused copies of **DECLARATION OF ERIC MILLER** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

**/s/ Steve W. Berman**

Steve W. Berman